



JFW/1615

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: **OTSUKI, Koichi, et al.**

**ATTN: PCT BRANCH**

Serial No.: **10/567,968**

Group Art Unit: **1615**

Filed: **February 10, 2006**

P.T.O. Confirmation No.: **7177**

For: **ANTIVIRAL AGENT, AND FABRIC AND ANTIVIRAL MEMBER SUPPORTING  
ANTIVIRAL AGENT**

**RENEWED SUBMISSION UNDER 37 CFR 1.47(a)**

Mail Stop PCT  
Attn: Bryan Lin, PCT Legal Examiner  
Commissioner for Patents  
Office of PCT Legal Administration  
P.O. Box 1450  
Alexandria, VA 22313-1450

June 21, 2007

Dear Sir:

In response to the Decision on Papers Under 37 CFR 1.47(a) dated **April 24, 2007**, submitted herewith for filing is a Declaration by a person who has firsthand knowledge of attempts to contact the missing inventor. In the event that any fees are due with this paper, please charge Deposit Account No. 01-2340.

In the event that this response is not timely filed, the applicants hereby petition for an appropriate extension of time. The fees for any such extension may be charged to our Deposit Account No. 01-2340.

Respectfully submitted,

ARMSTRONG, KRATZ, QUINTOS,  
HANSON & BROOKS, LLP

Donald W. Hanson  
Attorney for Applicants  
Reg. No. 27,133

DWH/rmp  
Atty. Docket No. **060131**  
Suite 1000  
1725 K Street, N.W.  
Washington, D.C. 20006  
(202) 659-2930



23850

**PATENT TRADEMARK OFFICE**

Enclosures: Decision on Papers Under 37 CFR 1.47(a); Declaration and Communication letters dated October 26, 2006, November 9, 2006, November 17, 2006 and November 21, 2006, attached as Exhibit A



UNITED STATES PATENT AND TRADEMARK OFFICE

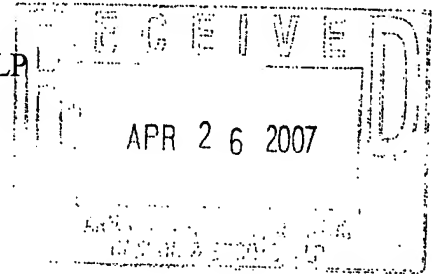


2 ms Response  
Due: JUNE 24, 2007

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450  
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24 APR 2007

ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP  
1725 K STREET, NW  
SUITE 1000  
WASHINGTON, DC 20006



In re Application of OTSUKI et al  
U.S. Application No.: 10/567,968 = 060131  
PCT Application No.: PCT/JP2004/011853  
Int. Filing Date: 10 August 2004  
Priority Date Claimed: 12 August 2003  
Attorney Docket No.: 060131  
For: ANTIVIRAL AGENT AND FIBERS AND  
ANTIVIRAL MEMBERS USING THE  
SAME

DECISION

This is in response to applicant's "Renewed Petition Under 37 CFR 1.47(a)" filed 12 April 2007.

### BACKGROUND

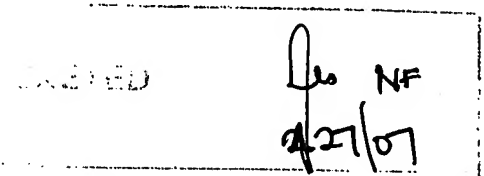
On 10 August 2004, applicant filed international application PCT/JP2004/011853, which claimed priority of an earlier Japan application filed 12 August 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 17 February 2005. The thirty-month period for paying the basic national fee in the United States expired on 12 February 2006.

On 17 February 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 30 August 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 28 November 2006, applicant a petition under 37 CFR 1.47(a).

On 26 February 2007, this Office mailed a decision dismissing the 28 November 2006 petition.



On 12 April 2007, applicant filed the present renewed petition under 37 CFR 1.47(a).

### **DISCUSSION**

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

Applicant has previously satisfied items (1) and (4) above.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted which fully describes the exact facts which are relied on to establish that a diligent effort was made. . . . The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

The petition states that joint inventor Masami Yakura cannot be found. However, the petition does not sufficiently establish that a diligent effort was made to locate Yakura. Although applicant has supplied what appear to be copies of letters sent to Yakura, a statement from the person with firsthand knowledge of the various attempts to reach Yakura has not been furnished. Such statement should detail all efforts to reach Yakura and should specify the results of those efforts. Thus, it would not be reasonable to conclude at the present time that Yakura cannot be found after diligent effort.

With regard to item (3) above, applicant is advised that effective 22 November 2004, the fee for a petition under 37 CFR 1.47 increased to \$200.00. Any deficiency in the petition fee will be charged to Deposit Account No. 01-2340 as authorized by applicant.

### **CONCLUSION**

For the reasons above, the renewed petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are

available under 37 CFR 1.136(a). Failure to timely file a proper response will result in abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)".

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

*Bryan Lin*

Bryan Lin  
PCT Legal Examiner  
PCT Legal Office

Telephone: 571-272-3303  
Facsimile: 571-273-0459



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the Application of: **OTSUKI, Koichi, et al.**

Group Art Unit: 1615

Serial No.: 10/567,968

Examiner: Not Yet Assigned

Filed: February 10, 2006

P.T.O. Confirmation No.: 7177

For. **ANTIVIRAL AGENT, AND FABRIC AND ANTIVIRAL MEMBER SUPPORTING  
ANTIVIRAL AGENT**

**DECLARATION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

I, Kazuo WAKABAYASHI, citizen of Japan and having a current address  
of c/o Mochigase Electrical Equipment Co., Ltd., 7-2 Mochigase, Mochigase-cho, Yazu-gun,  
Tottori 689-1201, Japan, hereby declare and state the following :

(1) I have been employed at Mochigase Electrical Equipment Co., Ltd. of Japan, the assignee  
in the above-identified application, since March 1, 1986 and my present position with  
Mochigase Electrical Equipment Co., Ltd. is President.

(2) As part my duties at Mochigase Electrical Equipment Co., Ltd., I attempted to contact Mr.  
Masaru YAKURA, one the inventors of the above-identified patent application, to obtain his  
signature on the Declaration and Assignment for the above subject application.

(3) The address for Mr. Masaru YAKURA last known to Mochigase Electrical Equipment  
Co., Ltd. was: 91, Nishihonji, Tottori-shi, Tottori 680-0811, Japan.

(4) I attempted to contact Mr. Masaru YAKURA by certified mail enclosing a copy of the Declaration on or about the following dates: October 26, 2006, November 9, 2006, November 17, 2006 and November 21, 2006, copies of the correspondence being attached as EXHIBIT A at the above address.

(5) All of the correspondence sent by certified mail to Mr. Masaru YAKURA was returned as being undeliverable.

(6) I have concluded that, after the many failed attempts to contact or locate Mr. Masaru YAKURA despite diligent effort, Mr. Masaru YAKURA cannot be located.

The undersigned declares that all statements made herein of his/her own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that willful false statements may jeopardize the validity of the application or any patent issued thereon.

Signed this 18<sup>th</sup> day of JUNE, 20 07.

Kazuo Wakabayashi

NAME Kazuo WAKABAYASHI

平成18年10月26日

矢倉 正美 様

〒688-0041 米子市茶町2-7 石川ビル3F

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発明者宣言書の件

時下ますますご清祥の段、お喜び申し上げます。

このような書簡を差し上げますのは、米国では、共同発明者の全員でなく、その一部の者でも米国への特許出願ができるようになっており、通常は書留郵便で本人の住所宛に書面を送付し、配達ができなかった証明（不配通知）を得て、そのコピーを説明書として米国特許庁に提出するようことが行われているということに基づくものです。

尚、今般ご郵送申上げました配達証明付き書留（本通知のこと）をお受け取りになられた場合は、受け取った旨を弊所宛にご連絡頂ければ幸いです。

また、今回の書簡についてご質問等がありましたら、何なりと弊所までごお問い合わせ下さい。

まずは用件のみにて失礼致します。

今後とも宜しくお願い致します。

敬具

平成18年11月9日

矢倉 正美 様

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敬具



2006年11月17日

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用瀬電機株式会社及び大槻公一氏共同名義 PCT/JP2004/011853 に基づく米国特許出願第10/567,968号に関し、矢倉様のご署名が必要な書面がありますので、該当箇所にご署名ならびにご署名日付をご記入頂き、お手数ですが、至急弊所までご返送下さいますようお願い致します。

尚、矢倉様のご署名が必要な書面は、冒頭に"23850 PATENT TRADEMARK OFFICE"と標題のついている書面の2枚目の書名欄及び日付欄ならびに、"U.S. ASSIGNMENT"と標題のついている書面の書名欄及び日付欄の4箇所です。

今回の書簡についてご質問等がありましたら、何なりと弊所までごお問い合わせ下さい。まずは用件のみにて失礼致します。

今後とも宜しくお願い致します。

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2006年11月21日

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